

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4729 of 1997

with

Civil Application No. 519 of 1998.

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

BAKULESH GINALDAS SHETH

Appearance:

MRS VASAVDATTA BHATT for appellant
MR MTM HAKIM for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

Date of decision: 17/04/98

ORAL JUDGEMENT (Per J.N. Bhatt, J.):

In this appeal, the appellant, Gujarat State Road Transport Corporation ("GSRTC" for short - original opponent No.2, has questioned the legality and validity of the judgment and award dated 21.8.1997 recorded in Motor Accident Claim Petition No. 934 of 1995 by the MACT (Aux.), Vadodara, whereby, the Tribunal has awarded to the respondents/ original claimants an amount of Rs.4,82,000 by way of compensation for the unfortunate demise of a young breadwinner of the family in a road mishap, by invoking the aids of provisions of Section 173 of the Motor Vehicle Act, 1988 ('the Act' for short).

The only question which is advanced before us is with regard to the quantification of damages. In that, it has been submitted that the amount awarded by the Tribunal is higher by an amount of Rs.2,50,000. Thus, the contention and the dispute in this appeal is circumscribed to an amount of Rs.2,50,000. Therefore, the question that would arise is as to whether the assessment of compensation amount made and granted by the tribunal in the case on hand to the extent of Rs.4,82,000 under both the recognized heads to the legal representatives and heirs of the deceased could be said to be excessive to the extent of an amount of Rs.2,50,000?

With a view to appreciate the sole dispute which has been agitated in the appeal and in the course of submissions before us, let us have a spectrum of material facts which we have gathered upon examination of the copies of the evidence submitted to us in the course of hearing.

After having considered the factual scenario and material considered by the Tribunal and emerging from the record of the present case, following aspects have remained unassailable:

(1) Deceased Paresh B. Sheth was a sales representative of a renowned company known as 'Span Diagnostics'. The Area Manager of the said company has testified in his evidence, at Ex.184, that deceased being a technical sales officer, was earning an amount of Rs.3552 over and above the following benefits:

- (a) 24% of the annual salary by way of bonus;
- (b) LTC benefit in every two years;
- (c) Monthly Rs.100 as medical allowance;
- (d) Daily allowance at the rate of Rs.150/-

That the salary certificate produced, at Ex.85, though, prima facie, shows that the monthly basic salary was Rs.1356, the Tribunal has, rightly, considered other monetary benefits emerging from the employment relationship which were enjoyed and available to the deceased at the relevant time, including monthly territorial development allowance.

It is also borne out from the evidence of the Area Manager that the deceased would have earned, in course of time in the employment, a monthly salary not less than Rs.15,000.

The evidence of Mr. M.R. Naik, the Administrative and

Marketing Manager, of Span Diagnostics also reinforces the testimony of the Area Manager and supporting the contention of the claimants. It is, clearly, testified by Mr. Naik that even in the usual course of employment, wherein, the superannuation was 58 years, the deceased, without any promotion, would have been able to get an amount between Rs.15,000 to Rs.20,000 per month at the fag end of his career, over and above other monetary benefits and perks.

It could very well be visualized without any hesitation from the above unassailable aspects that the assessment made by the Tribunal and the determination of the dependency value at Rs. 3166 per month is quite justified. Therefore, the Tribunal has, rightly, awarded an amount of $\text{Rs.} 3166 \times 12 \times 10 = \text{Rs.} 3,79,920/-$ under the head of loss of dependency benefits on account of death of Mr. Sheth.

The break-up of the amount of compensation is highlighted in the end of paragraph 19 which reads as under:

1. Rs. 55,000 towards medical charges
2. Rs. 25,000 towards pain, shock and sufferings
3. Rs. 20,000 towards loss of expectation of life
4. Rs. 02,000 towards funeral charges
5. Rs.3,80,000 towards future dependency benefit.

Rs.4,82,000 Total

It could very well be seen from the amount of quantification of compensation under the aforesaid five heads that they are quite reasonable and, fully, justified. Therefore, in our opinion, the amount awarded by the Tribunal, in the present case, by way of compensation is moderate, if not conservative. Under the circumstances, the sole contention agitated before us with regard to the excessiveness of the quantification of the damages to the extent of Rs.2,50,000 itself is unreasonable and unjust. In the circumstances, the appeal merits dismissal. Accordingly, the appeal is dismissed. No order as to costs.

In view of the above judgment, in civil application, notice is discharged.